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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TECH CENTER 1600/2900

In re U.S. Patent Application of:

Hans-Peter Call)
Serial No.: 09/446,373)
Filed: June 19, 1998)
For: OXIDATION AND BLEACHING)
SYSTEM WITH ENZYMATICALLY)
PRODUCED OXIDIZING AGENTS)
_____)

Examiner: Harry J. Guttman, Ph.D.

Group Art Unit: 1651

Charlotte, North Carolina, June 13, 2001

Assistant Commissioner for Patents
Washington, DC 20231

#9
J.G.J.
6/25/01

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This paper is submitted in response to the Office Action dated December 15, 2000.

In the Office Action, restriction of this application has been required under 35 USC §§121 and 372, as well as pursuant to PCT Rule 13.1 and 37 CFR §1.499, to a single invention to be elected from seven groups of the 49 claims pending in this application: (a) Group I, claims 1-37; (b) Group II, claim 38; (c) Group III, claim 39; (d) Group IV, claims 40-43; (e) Group V, claims 44 and 45; (f) Group VI, claim 46; and (g) Group VII, claims 47-49. The Office Action asserts that the above-identified groups of claims do not relate to a single general inventive concept because "inventions I-VII when paired with each other are unrelated." The applicant respectfully disagrees and requests reconsideration and withdrawal of the restriction requirement.

The applicable statutory provisions are found in 35 USC §121, which provides that restriction may be required if two or more "independent and distinct" inventions are claimed in one application. As explained in M.P.E.P. §802.01, the term "independent" as used in this statute means that there is no disclosed relationship between the assertedly differing inventions

as defined in the differing groups of claims, and the term "distinct" means that the assertedly differing inventions are not related to one another. Applying these standards in the present case, it is respectfully submitted that the differing identified groups of claims are not "independent and distinct" and, hence, all of standing claims 1-49 should be retained for prosecution in the present application.

Specifically, all of the claims of the present application are drawn to an enzyme component system and the use thereof, whereby it is respectfully submitted to be clear that all of the claims are closely related to one another. More specifically, the claims have in common the presence and use of oxidants consisting of at least one hydrolase, at least one fatty acid, at least one oxidant precursor, and at least one ketone. Perhaps most significantly, each of claims 38-49 which have been identified as purportedly representing six inventions apart from the invention of claims 1-37 depend in every case, directly or indirectly, from claims 1-37, whereby it is submitted to be clear that the differing groups of claims are not independent of one another. Thus, it is respectfully submitted that, contrary to the assertion appearing in the Office Action, the identified groups of claims are linked so as to form a single general inventive concept consistent with PCT Rule 13.1 and are not "independent and distinct" so as to be subject to restriction under 35 USC §121.

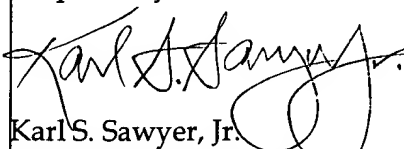
In addition, it is respectfully submitted that any search for any one of the identified groups of claims will necessarily entail a search for the subject matter of one or more or all of the other groups of claims. Thus, a simultaneous search for all of the standing claims is believed not to constitute an unreasonable search for the Patent Office. In addition, it is believed that the objectives of streamlined examination and compact prosecution of patent applications will be promoted if a search is conducted simultaneously for all of the claims. Also, the necessity of filing multiple patent applications for the claims in this case does not

serve to promote the public interest due to the extra expense that is involved in filing fees and examination costs, as well as the burden upon the public due to the necessity of searching through a multiplicity of patent files in order to find the complete range of subject matter claimed in several different patents that otherwise could be found in a single issued patent. Likewise, it is submitted to be unfair to this applicant to be saddled with the expense of prosecuting multiple patent applications where the assertedly differing groups of claims are so closely inter-related and, indeed, depend from one another.

Accordingly, it is respectfully submitted that the requirement for restriction in this case is improper and should be withdrawn, and that examination on the merits of all of the claims should proceed. Favorable reconsideration of the restriction requirement is respectfully requested.

While the applicant believes that all of the claims in this application should be examined together for the reasons stated above, the applicant recognizes that 37 CFR §1.143 requires that a provisional election among the identified groups of claims must be made in this response in order for the response to be deemed complete. Accordingly, without waiving the request for reconsideration for the reasons set forth above, the applicant hereby provisionally elects with traverse to prosecute in this application the subject matter of claims 1-37 identified in the Office Action as Invention Group I.

Respectfully submitted,



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